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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

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KEITH AUSTIN,

STATE OF NEVADA, et al.

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Defendant(s).

2:13-cv-00089-GMN-NJK

**REPORT & RECOMMENDATION OF  
UNITED STATES MAGISTRATE  
JUDGE**

Plaintiff Keith Austin is proceeding in this action *pro se*. Plaintiff filed a complaint on January 17, 2013. Docket No. 1. Because the Court granted Plaintiff's request to proceed *in forma pauperis*, the Court screened the complaint pursuant to 28 U.S.C. § 1915(e). Docket No. 4. The Court found that Plaintiff's complaint failed to state a claim and allowed Plaintiff thirty days to file an amended complaint. The Court indicated that “[f]ailure to comply with this Order will result in the recommended dismissal of this case, without prejudice.” Docket No. 4 at 4.

19 On May 1, 2013, Plaintiff moved for an extension of time to file an amended complaint,  
20 which the Court granted. Docket Nos. 6, 7. On June 11, 2013, Plaintiff filed a “response” to the  
21 Court’s order. Docket No. 8. The Court found this “response” insufficient in that Plaintiff was  
22 required to file an amended complaint but failed to do so. Docket No. 9. The Court provided  
23 Plaintiff with an additional opportunity to file a proper amended complaint. *Id.* at 2. The Court  
24 ordered that “**Plaintiff must file his amended complaint no later than July 15, 2013.** Failure to  
25 comply with this Order will result in the recommended dismissal of this case, without prejudice.”  
26 *Id.* (emphasis in original).

Having not received an amended complaint, on August 16, 2013, the Court issued another order that plaintiff must file an amended complaint. Docket No. 10. The Court granted an

1 additional opportunity to provide an amended complaint because the Court had attached a sample  
 2 complaint to its previous order that was not actually attached on the docket. *Id.* The Court ordered  
 3 that “**Plaintiff must file his amended complaint no later than September 15, 2013.** Failure to  
 4 comply with this Order will result in the recommended dismissal of this case, without prejudice.”  
 5 *Id.*

6 On September 15, 2013, Plaintiff requested another extension to the filing deadline. *See*  
 7 Docket No. 11. The Court again granted that extension, and ordered that an amended complaint  
 8 must be filed no later than October 15, 2013. Docket No. 12. The Court again reiterated that  
 9 “[f]ailure to comply with this Order will result in the recommended dismissal of this case, without  
 10 prejudice.” *Id.*

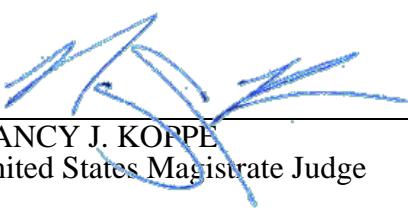
11 To date, the Court has not received an amended complaint or a further motion to extend the  
 12 deadline for filing one.

13 Accordingly, **IT IS THE RECOMMENDATION** of the undersigned United States  
 14 Magistrate Judge that this case be **DISMISSED** without prejudice.

15 **NOTICE**

16 Pursuant to Local Rule IB 3-2 **any objection to this Report and Recommendation must**  
 17 **be in writing and filed with the Clerk of the Court within 14 days of service of this document.**  
 18 The Supreme Court has held that the courts of appeal may determine that an appeal has been waived  
 19 due to the failure to file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142  
 20 (1985). This circuit has also held that (1) failure to file objections within the specified time and (2)  
 21 failure to properly address and brief the objectionable issues waives the right to appeal the District  
 22 Court’s order and/or appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951  
 23 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir.  
 24 1983).

25 DATED: October 28, 2013

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 28 NANCY J. KOPPE  
 United States Magistrate Judge